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Courtroom service from probation officers to judges : a case study and proposal for change

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**COURTROOM SERVICE FROM PROBATION OFFICERS TO JUDGES:
A CASE STUDY AND PROPOSAL FOR CHANGE**

**A Thesis
Presented to
the Faculty of the Administration of Justice Department
San Jose State University**

**In Partial Fulfillment
of the Requirements for the Degree
Master of Science**

**By
S. Scott MacDonald
December, 1995**

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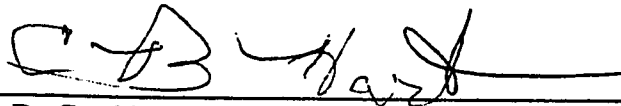
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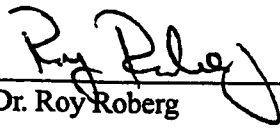
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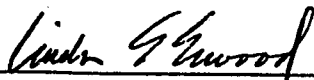
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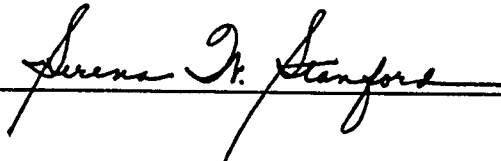


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ABSTRACT

COURTROOM SERVICE FROM PROBATION OFFICERS TO JUDGES: A CASE STUDY AND A PROPOSAL FOR CHANGE

by

S. Scott MacDonald

Judges rely on probation officers when making decisions regarding the treatment of criminal defendants. Research has focused primarily on recommendations made by probation officers to judges via written reports. There is little research on the informal means of communication conducted orally in the courtroom. While courtroom service has become more difficult to provide with increasing workload demands, the need for communication in the courtroom may be greater due to these demands.

This work examines the service provided by probation officers to judges in the Santa Cruz County felony courtrooms. Loosely coupled systems and bureaucratization are discussed to provide the theoretical framework relevant to this study. The perceptions of judges, perceptions of probation officers and court documents were analyzed. The findings indicate a loose coupling between judges and probation officers. A model for reorganization of courtroom service is presented.

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CHAPTER I

Introduction

From the American beginnings of probation, probation officers have had an important relationship with judges (Sieh, 1993). As an extension of the judge's authority into the lives of probationers, probation officers counsel, direct, and promote accountability to safeguard the integrity of the court's orders. Unlike other officers of the court, such as the district attorney and attorneys for the defense, probation officers maintain a non-adversarial position in the otherwise adversarial proceedings of the criminal court, and are invaluable to the judge as an independent source of information. Like a judge, probation officers are charged with weighing the benefits, as well as the risks, of any court action affecting the probationer. Judges have traditionally depended on the balanced judgment of probation officers provided in the form of recommendations for the treatment of offenders in their determination of just sentences.

Given the significance of this relationship, communication between probation officers and judges is essential if probation is to remain viable. Communication takes place through formal means, usually in written reports to the court, with recommendations for the treatment of offenders. Another less formal, but more direct means of information exchange only hinted about in the literature, takes place orally in the courtroom. While an ever-increasing workload has justified increased dependence on formal communication, this has resulted in a diminution of the probation officer's influence in the judges' decision-making. Ironically, increased workload demand has brought about an even greater need for direct communication in the courtroom as a means of preserving the communication link between probation officers and judges essential to the balanced treatment of probationers and determination of just sentences.

The following research is an exploration into the use of probation officers in the Santa Cruz County Felony Courts with a focus toward improvement. It is the author's contention that a bureaucratization has occurred which has created a need for improvement in courtroom service. A description of the changes in courtroom service over the years, the service currently being offered in Santa Cruz County, and the perceptions of judges and probation officers regarding this service will be analyzed in combination with various court data in an effort to shed light on this topic. Systems and management theory relevant to understanding and developing a proposed model for improvement will be discussed. The next section is intended to acquaint the reader more fully with the problem.

Roles of the Probation Officer

The probation officer engages in a wide variety of duties. The officer is a sentencing advisor to the court. S/he is both counselor and authority figure to the probationer. The difficulty in effectively carrying out these conflicting duties has increased with the dramatic growth of workload in recent years (Ellsworth, 1990; Hill, 1994; Mills, 1990). Since the 1980s there has been a steady incline in the number of individuals on probation. In California, probation officer staffing has not kept pace with the increase in cases. From 1983 to 1992 there was a 24 percent statewide increase of probation officers while caseloads grew by 73 percent (Hill, 1994).

There has been a preoccupation with the enforcement role of the probation officer in both the literature and in innovations in the field in recent years (Harris, 1987; Lawrence, 1990). This is understandable when considering the probation officer's caseload is composed mostly of felons, and that 7 out of every 10 felons are granted probation (Hill, 1994). Furthermore, probation officers' caseloads are composed of more violent offenders than in the past. This preoccupation with enforcement has also foreshadowed research

and innovations in other equally important areas, also under strain by the increase in workload, such as rehabilitation and service to the courts (Ellsworth, 1988; Lawrence, 1991; Lindner, 1991).

Probation and the Courts

Courts and probation have been impacted by large workloads and scarce resources. Efficiency has become an important concept to the courts (Forst, 1977; Kingsworth & Rizzo, 1979). Court workload has increased despite the fact that cases are dispatched at a more rapid rate than in previous years (Champion, 1987). Judges are constantly looking for ways to alleviate court workload pressure. A tendency toward expediency has given rise to dispositions reached without involving probation. Based on probation records obtained by the author, for example, Santa Cruz County presentence reports are currently waived in over half of the cases in which felons are placed on probation. Judges are often faced with balancing the need to handle probation matters expeditiously with their need for more detailed information from a probation officer that would likely result in a delay.

Judges decide when to grant probation and when to release a probationer on his/her own recognizance pending the disposition of a probation violation or new offense. They decide what action to take on a probation violation and they decide when to terminate or modify probation. The frequency of these decisions is great. In California, 70 percent of persons convicted of felonies end up on some form of probation and 60 percent of those sent to prison were on probation at the time they committed the offense that resulted in their imprisonment (Hill, 1994). While perhaps not critical, it is desirable for the judge to seek input from probation in making many of these decisions.

In spite of the inherent interdependency between probation officers and judges, there is little research in this area. There has been even less research looking at this relationship in the courtroom setting.

The Purpose

The purpose of this study is three-fold: (a) to contribute to the literature regarding service offered by probation in the courtroom; (b) to explore and analyze problems regarding the use of probation officers in the Santa Cruz County felony courtrooms; and (c) to use the findings, in combined analysis with relevant theory, to propose a model for improvement of courtroom service.

CHAPTER II

Related Research and Theory

As previously stated, research on the role of the probation officer in the courtroom is sparse. There was little research found by the author central to this topic. However, there has been related research having theoretical implications important to this study. This literature will be reviewed here and is intended to lay the theoretical groundwork of this study. Additionally, this section will further clarify the problem under investigation.

The Probation Officer's Recommendation

Probation officers make recommendations to judges on the treatment of criminal defendants. Most of the information a judge receives from a probation officer is in written form. There are various types of reports a probation officer prepares for a judge. Presentence reports are prepared in all felony cases resulting in a conviction unless *waived* by the defendant after conviction and prior to the sentence. Presentence reports have traditionally been an important source of information not always obtained in the process of determining guilt. They include information on the defendant, victims, and the offense. The bottom line of the report is the recommended sentence.

The adjudication process does not stop after one is granted probation. There are a significant number of probationers who return to court for probation violations (Cushman & Sechrest, 1992). This may include a new arrest, a new conviction, return on a bench warrant issued for absconding, or a technical violation of one of the terms of probation. In these cases, the probation officer files a probation violation report with the court. The violation report summarizes the nature of the violation and includes information deemed relevant to the recommendation for court action, which is also included in the report.

Probation officers may recommend a modification of the terms of probation based on new information which does not constitute a probation violation. The request for

modification may be to delete a restriction or term of probation due to an achievement or success on the part of the probationer or to add a more restrictive term.

Many probation departments separate pre- and post-sentence functions into two job categories of probation officers. Whereas the presentence investigator's duty is to prepare the presentence report, the supervision officer's duty is to assure that the probationer complies with the orders of the court as set out in the probation terms and conditions. The presentence investigation officer's encounter with an individual typically consists of one extensive meeting before sentencing, while the supervision officer maintains an ongoing relationship until the completion of the probationary period.

The supervision officer ideally spends his/her time directing probationers toward rehabilitation but, in reality, spends a great deal of time reporting violators to the court (Koehler & Lindner, 1992). According to a State of California Legislative Analyst report prepared on the state's probation system, 7 out of every 10 felons under jurisdiction of the courts are on probation (Hill, 1994). Sixty percent of the prison population was on probation at the time of sentencing. Clearly, the probationer's and probation officer's involvement with the court process extends beyond the presentencing role.

The area most studied in the relationship between judges and probation officers is the presentence report (Carter, 1966; Carter & Wilkins, 1967; Campbell, McCoy & Osigweh, 1990; Gibson, 1973; Trever, 1978). These studies mostly support the importance presentence reports have on sentences received, particularly when probation is recommended. One of the most cited studies, referred to as the San Francisco Project, involved the review of 500 cases to determine, in order of relevance, factors most significantly related to recommendations made by probation officers (Lohman, Wahl, & Carter, 1966). Recommendations were compared with sentences given. The study found that recommendations were followed by judges 93 percent of the time when probation was

recommended, 67 percent of the time when incarceration was recommended, and 86 percent of the time when imprisonment was recommended.

Carter (1969) looked at recommendations in the state of Washington and the US federal courts and also found a high level of agreement in cases where probation was recommended in the presentence report. These findings were also supported in the work of Cambell, McCoy, and Osigweh (1990). In sum, judges tend to sentence in accordance with the presentence recommendation.

Hagan, Hewitt, and Alwin (1979) present a different light on the presentence investigation report. They noted that the influence of the presentence investigation report had previously been studied in samples where presentence reports were requested and argued that a good assessment needed to consider other factors.

The work of Hagan et al. (1979) refers to the roles of the prosecutor, the judge and probation officer as an example. In their analysis of 504 randomly sampled court cases, they contend that the presentence report was largely "ceremonial, preserving the myth of individualization in the court process." They assert that criminal courts have responded to the "potential disjunction between individualization and efficiency by expanding the decision-making network."

Sentencing recommendations are not only presented to the court by the probation officer, but by the prosecutor as well. Over 90 percent of all criminal convictions in the state and federal courts are obtained through plea bargaining (Champion, 1987; Langbein, 1979). The opportunity for the prosecutor to effectively circumvent the probation officer's report is great given that pleas and sentences are often arranged prior to a presentence referral. According to Hagan et al. (1979):

The prosecutor's recommendation for sentence is presented orally in court, while the probation officer's recommendation is submitted in writing as part of

the presentence report undisclosed to the offender or to members of the public [until after sentencing for a limited period of time]. The failure to disclose the probation officer's recommendation can conceal the fact that an elaborate presentencing process aimed at individualization has effectively been ignored (p. 510).

Although much of the research recognizes that the probation report has been very influential in the determination of sentences, Hagan et al. (1979) show that other factors can lead to a diminished importance, if not ceremonial role of the report. They point out the need to look at other influences. Their work recognizes that the need for efficiency has resulted in the expansion of the district attorney's role in the decision-making process. They add that the larger role of the district attorney in this process appears to be inversely related to the probation officer's direct influence in court decisions. They suggest that a tighter coupling between the judge and the district attorney may result in less individualized justice.

The Loosely Coupled Justice System

The work of Hagan et al. (1979) points to the need to look at the justice *system* and to recognize how professional relationships among various components of the system affect each other. A systems perspective of an organization is not new. The beginnings of systems theory date back to the work of Henry P. Kendall (1912). Systems theory gained popularity in the second world war and has since been applied in a variety of fields. Whereas early systems theory viewed the organization as an organic whole, today systems theory has taken a more complex view:

In contrast to the prevailing image that elements in organizations are coupled through dense, tight linkages, it is proposed that elements are often tied together frequently and loosely (Weick, 1976, p. 1).

Loose coupling refers to the independence retained among sub-systems which are otherwise responsive to one another. Loosely coupled systems allow for autonomy and

perseverance among subsystems. This is because the integrity of one subsystem may be maintained when another subsystem undergoes change. However, loosely coupled systems are not selective in what is perpetuated. "Archaic traditions as well as innovative improvisations may be perpetuated" (Weick, 1976, p. 6).

A viewpoint of the system as a composite of subsystems with varying levels of coordination allows for the type of complexity that exists in the real world. The organization is often influenced by more than a group of people working on common goals. The employees in the organization may have different tasks with differing goals or sub-goals. The degree to which sub-elements of a large system are loosely or tightly coupled may vary greatly and may change with time.

The criminal justice system has been explained as a loosely coupled system by various researchers (Cuvelier & Jones, 1992; Hagan 1989; Welsh & Pontell, 1991). The justice system is composed of a variety of agencies all working under the principle of doing justice, whether it be police, judges, district attorneys, probation officers, or public defenders. Additionally, these agencies have independent sub-goals, some of which are a point of conflict between them. Conflict is a built-in feature of the adversarial justice system, but, conflict may exist for other reasons as well. For example, two agencies of the justice system that typically work toward similar goals may find themselves competing for the same funds and resources.

There are advantages and disadvantages to both loosely and tightly coupled systems. Tight coupling is indicated by a high level of coordination, while loose coupling is indicated by a high level of autonomy. Coupling is a fluid and changing phenomenon. Depending upon the task or particular goal at hand, sub-elements or agencies may be loosely or tightly coupled. Task forces, for example, are prone to tight coupling for the purpose of achieving a common goal.

Change in one element of a loosely coupled system may have a ripple effect on other elements. For example, a police agency may organize a sting operation which causes a sudden increase in the inmate population at the county jail. Pressure may be applied by jail officials to judges and district attorneys to deal with the problem. District Attorneys may alter their usual filing practices to deal with the crowding problem. Judges may look to alternatives, such as pre-trial and probation services. The sting operation may have been initiated by a law change or complaints from the community regarding a particular problem. A change in the political environment has been noted to act as catalyst to tighten (Welsh & Pontell, 1991) or loosen coupling (Hagan, 1989, pp.124-125).

Loosely coupled systems are more prone to a reactive mode whereas tightly coupled systems are better equipped to take a proactive stance. Welsh and Pontell (1991) studied three California counties in court over jail litigation. They analyzed archival data, including court documents, and analyzed interviews with criminal justice and government personnel to explore how court intervention affected the relations and policies in loosely coupled criminal justice systems. They found that the more loosely coupled the system, the more initially resistant to court orders, and the more conflicted and competitive the interaction between agencies. They also found that the intervention eventually resulted in tighter coupling between elements.

The tightening of coupled elements in a system may create loose coupling in another area:

...if one wishes to observe loose coupling, then he has to see what is being done and what is not being done. The general idea is that time spent on one activity is time spent away from a second activity. A contextually sensitive methodology would record both the fact that some people are in one place generating events and the fact that these people are thereby absent from some other place (Weick, 1976, p. 10).

The work of Hagan et al. (1979) discussed earlier aptly illustrates this point. In their sample, the research showed that the tighter coupling between the judge and the district attorney loosened the coupling between the probation officer and the judge to such a degree they referred to the presentence investigation report as "decoupled" and taking on a "ceremonial" role rather than being crucial or essential in the presentencing process. Hagan used the term, decoupled, to mean that the sub-elements operate independently and are unresponsive to each other.

It is important, however, not to underestimate the effects of the environment as a change agent in the coupling between elements of the system. In the research by Hagan et al. (1979), the demands for efficiency due to workload caused a shift in coupling, while Welsh and Pontell (1991) found an eventual tightening of elements throughout the system after court intervention over jail overcrowding. These studies indicate that, in addition to changes in the political environment, workload may be a variable influencing the coupling and potential decoupling of elements in a system.

The criminal justice system has been labeled a non-system by various researchers. It may be more appropriate to view a lack of observed coordination between criminal justice agencies as loose coupling. This language gives way to a perspective that is not static and acknowledges the flexibility of a changing system that is responsive, both proactively and reactively, to the environment. By viewing the justice system as a set of loosely coupled sub-systems, we can possibly better understand the complexity of the justice system in order to find realistic solutions to problems.

Bureaucratization and Workload

Highlighted below are a few areas in probation threatened by the *red-tape* form of bureaucracy induced by work overload. If growth of a bureaucracy can reduce efficiency, there is a need for ongoing analysis, a new perspective, and a possible restructuring of the

organization. Failure to do so is to cheat the organization and employees of opportunities to better reach organizational and personal goals. Job satisfaction is difficult to achieve in a red-tape bureaucracy and an organization will suffer if its employees are not satisfied.

The concept of bureaucracy is attributed to Max Weber who developed his theory in the late 1800s and early 1900s. Weber believed that bureaucracy was a rational approach to management which would produce fairness and reduce nepotism through promotion based on competence. He believed in division of labor based on a specified sphere of competence, a distinct set of rules, a hierarchy of authority, and maintenance of impersonal relationships (Gerth & Mills, 1946). Weber's concept of bureaucracy was intended to be a benign form of organizational management far from the "red-tape" reputation that is associated with large bureaucracies today.

Another definition of bureaucracy prevails in many organizations today. According to Webster's Dictionary (1993) one definition of bureaucracy is:

.... a system of administration marked by constant striving for increased functions and power, by lack of initiative and flexibility, by indifference to human needs or public opinion and by a tendency to defer decisions to superiors or to impede action with red-tape

With a rapidly changing environment marked by technological advances and overload, today's bureaucracy exhibits a number of problems: (a) its rigid structure is not suited for rapid change; (b) as bureaucracy grows beyond a certain point, efficiency is reduced; and (c) in areas requiring a high degree of technical skill and education, workers demand more rewarding work experiences (Bennis, 1969).

Lorne Tepperman (1973) studied the effects of court size on organization and procedure. He studied decision-making among the 72 Massachusetts juvenile courts. All juvenile dispositions from 1964-1970 were analyzed. He categorized the courts into "small, medium and large" court systems. He defined bureaucratization in his study as:

(1) the establishment and communication of universalistic standards of decision-making; (2) specified, rather than diffuse, orientations to the objects of decision-making, the organizational "clients"; (3) the reduction in importance of ascribed status of "clients" as criteria upon which decisions are made; and (4) the displacement of organizational goals by the procedural and exigent organizational concerns (p.347).

Tepperman noted that his operational definition of bureaucracy reflected "bureaucratic practice" rather than the "bureaucratic ideal" discussed by Weber. Types of dispositions were categorized for females and males by the court size. Turnover rate of court cases was also assessed along with the number of probation officers and size of the supervision officer's caseload.

Among the findings and conclusions in Tepperman's study was that a greater degree of standardization of cases occurred in the larger courts. This included similar treatment between boys and girls in spite of the fact that the crimes and backgrounds between boys and girls were not similar. It was concluded that less individualization took place as the court size increased. Another finding was that smaller courts were able to reach dispositions faster than the medium and larger courts. It was noted that it took less time to find services for the offenders in the smaller courts. It was speculated that this was due to the informal nature and greater intensity of communication between the courts, probation officers and service providers. Tepperman noted that:

As the court staff and clientele grow linearly from small to large, increasing by a factor of 5, the density of relationships increased by a factor of 10 or 15. This dramatic increase in interactions among court staff may plausibly be held responsible for the bureaucratization of procedures we have found in large court systems (p.363).

Probation work today has been characterized by a similar bureaucratization of procedures expressed by Tepperman (1973) and Bennis (1969). Mills (1990), in his analysis of career issues for probation officers, said that probation officers have come to

understand that they are in the "paper business" as much as the "people business" in that much of their day is taken up by paper shuffling and dictation. Face-to-face contacts in the field and in the office have been endangered by large caseloads and the associated paperwork probation officers have come to rely on as a method of conducting supervision. Lawrence (1984) found that probation officers in larger departments felt that their agencies rewarded paperwork the most.

Bureaucratization of probation functions appears to be a major contributor to burnout in the field. Whitehead (1989) concluded in his comprehensive work on burnout in probation and corrections that, in diametric opposition to the theory that burnout is caused by emotional exhaustion due to the intensity of contact with clientele, greater contact with clientele was more frequently associated with feelings of accomplishment as was greater participation in decision-making.

Courts have come to rely on legal expertise brought on by determinant sentencing laws (Mills, 1990). Probation officers are looked upon to factor a complicated set of sentencing guidelines aimed to standardize sentencing. In California, the sentencing law has been structured in such a way that it has invited excessive legislation which has increased the problems it was intended to fix (Holt, 1995). Keeping up with complicated sentencing law has resulted in specialization between presentence investigation and supervision roles. This has resulted in a *production line* approach to job tasks. In cases where a presentence investigation report has not been waived, one probation officer prepares a recommendation after investigation, and another probation officer supervises the probationer under the terms that were formulated by the investigator. Coordination between the presentence investigating probation officer and the supervision officer is often difficult with the large workload. Loose coupling between the presentence investigation

officer and the supervision officer has been a natural development in response to specialization combined with demanding workloads.

Highlighted above are just a few areas in probation threatened by the *red-tape* form of bureaucracy induced by work overload. If growth of a bureaucracy can reduce efficiency, there is a need for ongoing analysis, a new perspective, and a possible restructuring of the organization. Failure to do so is to cheat the organization and employees of opportunities to better reach organizational and personal goals. Job satisfaction is difficult to achieve in a red-tape bureaucracy, and an organization will suffer if its employees are not satisfied.

Probation Officers in the Courtroom

Probation is the primary sentencing option exercised by judges (Hill, 1994; Koehler & Lindner, 1992). In spite of pressure under workload demands to move a case efficiently through the court process, there is amazingly little research on the effectiveness of a probation officer in the courtroom. In Eisenstein and Jacobs' (1991) pioneering work on the courtroom workgroup, no recognition was given to the role of the probation officer in the courtroom. They defined the courtroom workgroup to include, "prosecutors, defense counsel, clerks, bailiffs, and to a limited extent, defendants" (p.10). In this author's review of the literature, the only substantive work looking at a probation officer's oral contribution in court proceedings was an analysis of British courts. In this analysis, Carlen (1974) examined the face-to-face interaction that takes place in the courtroom among court professionals, defendants and social workers. Carlen's work gave considerable recognition to the probation officer's influence in court proceedings. No literature was found originating from the United States which looked specifically at this role.

The extent to which probation officers are used in courtrooms in various jurisdictions remains to be studied. There is a significant need to contribute to the literature so lacking

in this area. It is hypothesized that bureacratization, due to growth, has caused a
decoupling between judges and probation officers, and this has created a need for
improvement of courtroom service in the Santa Cruz County Felony Courts if justice is to
be achieved in the treatment of defendants.

CHAPTER III

Methodology

This study undertook a process which moved from exploration to action. In doing so, a variety of methods and data sources were used. Through exploration, questions were developed. Consequently, some of the data was collected in a short time and should be viewed as preliminary. In this discussion of methodology, some of the considerations made and approaches taken in this study will be described.

Case Study

In conducting research in probation, there are considerations to be made which are relevant to the choice in methodology. The following research describes these considerations which were influential in the author's choice of a case study approach.

A review of felony probation in the United States conducted by Cushman and Sechrest (1992) revealed great diversity and variety among agencies. For example, they indicated that some states using an indeterminate sentencing system, such as New York, sentenced 40 percent of its felons to probation, while determinate sentencing states such as California, sentenced 70 percent to probation. Even within California there is tremendous variety between counties as to who is granted probation and how probation services are administered (Hill, 1994).

There is a prevailing misconception that probation agencies are pretty much the same (Cushman & Sechrest, 1992). The reality is that probation agencies vary greatly with regard to workload and resources. This variation can become a "trap" for researchers, according to Cushman and Sechrest (1992), who say that it is "misleading--even pointless--to make comparisons between probation departments." The extent to which probation officers are a part of court proceedings on probation matters in differing local jurisdictions is unknown. The purpose of this study is not to review the use of court officers in various

jurisdictions. One may suspect, however, that organizational practices in the use of court probation officers might be as varied as other areas in probation.

A case study may be the most realistic and innovative approach to looking at probation. Focusing on one county may present a "micro" picture of the problem but the results may apply universally. The existence of so much variety in probation implies that there is the autonomy to adopt changes on a micro level. The legislative analyst report on the state of California's probation system, prepared for the 1994-95 budget, states that diversity and flexibility in the delivery of probation services between counties is a "good thing." It allows for the diversity that exists between communities and jurisdictions. The report called for a "statewide clearinghouse" to provide a forum for the sharing of ideas on innovative programs" (Hill, 1994).

It is with these considerations, the variety of probation and the potential for innovation to be developed at the local level, that a case study approach was chosen. This author, at this writing, is a 12 year employee of the Santa Cruz County Probation Department. This position has provided both access and the ability to observe a system which has changed greatly over the past decade.

The methods employed in this study are primarily qualitative. Much of the data is weighted in the opinions of professionals. It is the author's opinion that a solid understanding of the research problem and potential solutions could be drawn from these perceptions. This opinion is shared by other researchers (Bogdan & Biklen, 1982). In reference to educational research, Bogdan and Biklen (1982) state:

A field once dominated by measurement, operational variables and empirical facts is having to make room for a research approach that emphasizes inductive analysis, description, and the study of people's perceptions. Generations of educational researchers trained to think of educational research in one dimension, the quantitative, are being asked to embrace a broader view. Approaches that a short time ago were peremptorily dismissed as prescientific

or "fluff" have begun to play a role more central to educational research (p. xiii).

This study placed a high value on the opinions of professionals. This is due to the belief that: (a) opinions of professionals are an influential precursor to change, and, (b) opinions of the professional who has gained expertise in a particular area are valid. This is the concept behind the elite interview technique which will be discussed further in chapter IV.

Data Triangulation

The data sought to answer the research questions come from three primary sources: (a) the perception of the Santa Cruz County felony judges, (b) the perceptions of Adult Probation Officers of Santa Cruz County, and (c) documents of court outcomes pertaining to probation. The findings from these data sources will be analyzed in combination to enhance validity. This has been referred to as data triangulation. According to Duffy (cited in Leedy, 1993), "data triangulation attempts to gather information through the use of a variety of sampling strategies to ensure that a theory has been tested in more than one way." According to Glasser and Strauss (1967):

A theory that is faithful to the every day realities of a substantive area is one that is carefully induced from diverse field data. Only in this way will the theory be closely related to the daily realities (what is going on) in a substantive area and be so highly applicable to dealing with it (p.239).

In keeping with the exploratory nature of this study, the questions generated are cumulative. That is, as data was collected in one area, new questions were posed which prompted exploration in another area. The format of this paper was designed to represent, as much as possible, the research process taken. For clarity, further description of methods will be joined with description of procedures and findings in the ensuing chapters. This will be followed by an analysis of the triangulated data in the discussion section.

Action Research

Since one purpose of this study is to develop a model for application in the field, the methodology could be called *action science*. According to Argyris (1985):

...action science seeks to enact communities of inquiry in communities of social practice. In action science we build on the practices for coming to agreement in everyday life, in ways that make them more consistent with scientific values such as valid information and public testing (p. 12).

The end product of this research will be a proposed model intended to improve upon courtroom service offered by probation. Before presenting the various methods, procedures and findings, the next section will detail courtroom service offered by probation.

Case Study Background

The following background information regarding the use of probation officers in Santa Cruz County courtrooms was obtained from probation records and conversations with probation personnel:

In Santa Cruz County, the probation department has provided probation officer coverage during the daily criminal *court calendar*. This calendar, or list of court cases for a particular day, contains arraignments, modifications, motions and sentencings on criminal matters and probation violations. The probation department has divided adult division line staff probation officers into two specialized job categories. Presentence investigators write reports which contain a summary of the present offense, prior record, social and family history, statements from victims and the defendant, and a recommendation for sentencing after taking into account sentencing law. Supervision officers see that those placed on probation comply with the court's orders.

Both supervision and investigation officers have had a presence in the courtroom during the criminal calendar over the years. This coverage has changed with time. In the

early 1970s there was coverage in the one superior court, which handled all felony criminal cases, and the two municipal courts--one north and one south county. Coverage of the municipal courts was discontinued in the late 1970s along with the elimination of many of the presentence investigations done on misdemeanor cases due to workload increases and staff cutback.

Prior to 1982, it was common to have one probation officer, usually a presentence investigator, keep track of all the probation matters during the criminal calendar. Of particular importance were notes pertaining to referrals for presentence reports, as it initiated the assignment of the report and gave the assigned officer preliminary information regarding pleas entered. In addition to the one officer covering the entire criminal calendar, supervision officers would appear on their own cases. By 1984, it was decided that there were too many probation officers in the courtroom taking up too much of their time waiting for their cases to be called. The criminal court calendar frequently lasted one-half a working day. It was decided that supervision and investigation officers would take turns covering the court calendar. This meant that the probation officers would either report most information in written form prior to the court hearing or the court officer would be given the information to present orally in court. Taking notes on pleas entered and dispositions reached was still an important job for the court officer.

In 1987, one person was assigned to act as court officer. This person would collect and review probation files from those officers who had cases in court. S/he would read violation and presentence reports along with probation officer's notes (frequently referred to as "chrono's"). This court officer was expected to be familiar enough with the files to answer questions the judge might have in court. After court, information of what occurred would be noted in the files and given back to the various officers. This officer's role was essentially that of "mouthpiece" and note-taker for other probation officers.

In June of 1993, the superior court reorganized to a federal style, often referred to as "vertical prosecution" (the name "felony team" was adopted in Santa Cruz County). Three felony courts were created. Instead of having all cases begin in municipal court at the arraignment stage and transferred to superior court when felony charges were filed, all new and subsequent cases would go before the same judge. This system was quickly recognized by court professionals as more efficient (The County Board of Supervisors awarded employees for outstanding achievement for developing the Felony Team, February 28th, 1995). Cases went through the court process from start to finish in less time. The ability to make quality decisions from the bench also improved as judges had greater opportunity to know their cases (Judge Robert Attack, personal communication, December, 1995).

Once the Felony Team was adopted, the court probation officer found himself covering three courts. The court officer had to go between the three courts, all doing business at the same time, to take notes on what transpired. As part of the court's move to a more efficient system, minute orders (official documents indicating court action) were prepared in court. Instead of being sent to the probation department days later, the court probation officer could get information on presentence referrals from the court clerk the same day. It was no longer necessary for the court officer to take notes on a referral in court. The officer became a messenger for the probation department. S/he would try to make important oral representations to the various courts, but could not take a consistently proactive role while covering three courtrooms simultaneously.

The probation department management recognized that this system was not working well. Management decided that the department's six investigation officers would take turns covering the three felony courts. Presentence investigation officers were chosen over supervision officers, not because the court work was more pertinent to their duties,

but because it was felt that they could more easily handle the extra job responsibility; supervision officers' caseloads were approximately 200 individuals each while referrals for presentence reports had dropped.

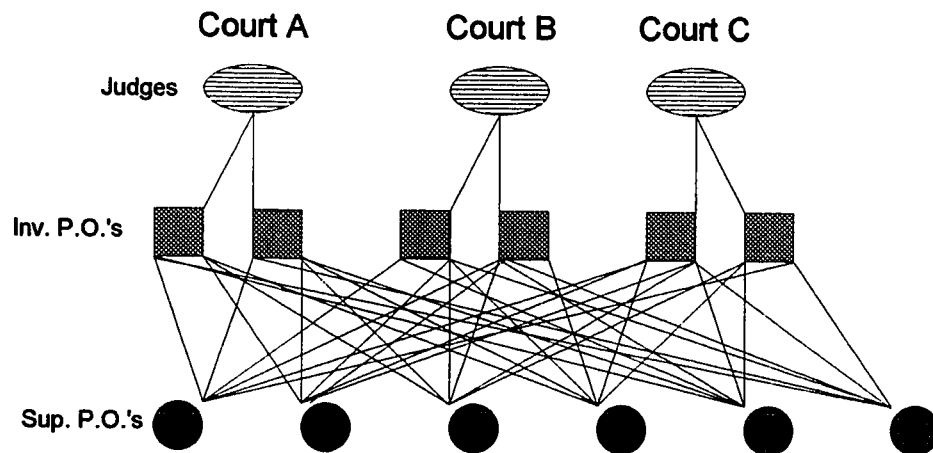


Figure 1. Existing system of information pathways between judges, investigation officers (Inv. P.O.'s), and supervision officers (Sup. P.O.'s) in the three felony courts.

During the time of this study, this was the organization of the court probation officer, i.e., presentence investigation officers were responsible for court coverage. Figure 1 is a schematic representation of the exchange of information under the existing system. There is concern that there was a lack of "ownership" and direct communication in this arrangement. In the following three chapters, the present courtroom service will be investigated; each chapter will focus on a different data source. These chapters include: (a) the perspectives of judges, (b) the perspectives of probation officers, as well as (c) court data.

Limitations and Assumptions

The data for this study was collected from the Santa Cruz County justice system--a select population of judges and probation officers. There is enough indication in the literature that the problems under investigation in this study may have relevance to other court jurisdictions. It should be recognized, however, that Santa Cruz County is a unique area, and the extent to which the research here might be relevant in other jurisdictions, is not known.

Another factor which presents possible limitations is that the researcher is an employee with the Santa Cruz County Probation Department. It must be acknowledged that this could introduce bias. Measures were taken in both the research design and the procedures to minimize contamination due to subjectivity and to maximize validity.

It should also be pointed out that the job of a probation officer is varied. Within a given agency there are many different job classifications and duties, such as, juvenile investigations, juvenile supervision, juvenile placement, drug and domestic violence diversion caseloads, adult investigation, adult intensive supervision and adult supervision. This study looks at only two generic work assignments: adult investigations and adult supervision. There has been the development of intensive supervision and specialized caseloads to deal with certain types of offenders. The probation officers handling those caseloads do not oversee the bulk of supervision cases and they were not considered in this study. This is primarily due to an observation that they are not experiencing the same problems as probation officers with larger caseloads.

Finally, as previously mentioned, the questions asked were cumulative. Data samples in some areas were small because either the population was small or the researcher's time was limited.

Research Questions

The expected findings of the research is that there is a need for improvement of the courtroom service offered by probation and that the need for this improvement will be recognized by judges and probation officers alike. The following broad research questions dictated the data sources in this thesis:

1. How do Santa Cruz County felony court judges perceive probation service in general, and specifically, how do they perceive probation service in the courtroom?
2. How do probation officers perceive probation service in the courtroom?
3. What types of activity take place in the courtroom; and, does this activity corroborate with the perceptions of judges and probation officers?
4. Do the answers to the above questions point to a need for improvement of courtroom service offered by probation? If so, do they shed light on what more effective courtroom service might be?

CHAPTER IV

Judges' Interviews

Research Questions

The impetus for this research was based upon the following assumptions: (a) the judges in Santa Cruz County value an active, contributing probation officer in their courtrooms; (b) judges would like improvement in the service provided to them by probation officers in the courtroom; and, (c) judges would prefer to have the officer in court who supervises the probationers they sentence, i.e., more direct communication than in the present arrangement.

To establish a foundation upon which solutions may later be developed, the answers to questions in the following general areas were sought:

1. What are judges' views on the goals and responsibilities of probation officers?
2. What problems do judges perceive in the delivery of probation services?
3. What would judges like from probation officers?

Method

Interviews with judges were chosen as the most direct method of attaining judicial perceptions of courtroom service. Five judges were interviewed during December, 1994 and January, 1995. Their time serving as judges ranged from 17 years to 3 months. This included the three judges who presided over the three felony courts, and two who were soon to be transferred to felony courts. One of the judges had no prior experience on the criminal bench and participated minimally for that reason.

The interviews were held by the author who is a deputy probation officer for the county of Santa Cruz. Judges were told that their responses would remain anonymous. Interview schedules were standardized into two survey schedules. The first schedule included unstructured questions intentionally designed to be general. This was to allow

the judges to express their own definitions of any problem(s) existing between the courts and probation and to avoid a possible acceptance of the researcher's definition of the situation. This is in keeping with the "elite interview" technique developed by Dexter (1970). This approach promotes the value of the professional expert interviewee in defining problems to the interviewer. It also advocates an interviewer who has a working knowledge of the subject. Dexter states, "I argue for a sympathetic understanding so that the interviewer, without strain, can talk the informant's language" (p.25).

Once answers to the general questions were obtained from the unstructured interview schedule, a second, structured interview schedule was administered (see Appendixes A and B for copies of the survey schedules). It sought answers pertaining specifically to the judges' perceptions and preferences of courtroom service from Probation. Questions were also asked regarding the level of cooperation judges would be willing to offer the probation department in improving courtroom service. Since it could not be expected that judges would indicate courtroom service as areas that needed attention, the second interview schedule would assure that this area would be covered. This is a strategy that Dexter supports:

...any planning for a study assuming heavy reliance upon elite interviews should have a contingency plan--an escape hatch, and alternative--so that if the elite interviews prove basically uninformative some other techniques can be substituted. (p. 17).

Findings

The following is a compilation of responses from the five superior court judges of Santa Cruz County who were interviewed during the last week of 1994 and the first week of 1995. In reviewing the judges' responses, a few broad areas surfaced. They include issues pertaining to probation officer workload and roles, communication between

probation officer and judge, and courtroom service provided by probation; the data will be organized accordingly.

Workload and roles of the probation officer. There was agreement between the judges in the way they perceive probation and probation service in the courtroom. The judges are aware of the challenges posed by the large workload and the various duties of the probation officer. "It's just too big of a job," one judge noted in regard to the volume of work probation officers struggle with. Although length of time on the bench varied among them, three of the judges mentioned the increasing workload demand as one of the more notable changes affecting the relationship between judges and probation officers. Mention was made of the cutbacks in probation services including the virtual extinction of probation supervision and presentence reports for misdemeanants, and the diminished quality of supervision of felony probationers due to the large caseloads. As one judge put it, "Many court orders are not carried out and a probationer often comes back to court on new charges before any supervision of probation orders has occurred."

Judges' perceptions of changes in probation services over the years varied little; variance seemed to correspond to length of time on the bench. One judge said the diminished ability to effectively supervise probationers and the decreased contact between probationers and probation officers was one of the biggest changes in the relationship between probationer and probation officer during his years on the bench. Another judge, who had not been on the bench as long, said he has not noticed much change other than some improvement in the supervision of some offenders. He said that this has come with the development of a few specialized "intensive" caseloads. [The probation department was able to create a few "intensive" caseloads during the mid to late 1980s for violent, criminally active, mentally ill, and sex offenders. These caseloads are smaller than others and allow for specialization, due to their specific focus. The probationers placed on these

caseloads, however, make up a small portion of those on formal probation.] Another judge said that the relationship between probationer and probation officer is dictated primarily by personal style; some probation officers are oriented toward rehabilitation while others are more law enforcement oriented.

Enforcement of the court's orders was indicated as one of the ways probation officers are helpful to judges. Essentially, this means being able to effectively supervise probationers. Intensive caseloads (i.e., smaller than regular caseloads) allow probation officers to supervise probationers more closely. As indicated by one judge:

Ideally, probation officers would have caseloads of 30 of the hard-core offenders. Assuming the ideal caseload is not going to be achieved, I would at least like to see supervision caseloads [as opposed to other areas in probation] not get the short end of the stick. It seems that a response to cutbacks is to increase the supervision caseload. I think, overall, probation does the best it can considering the conditions. Probation has been treated like the stepchild of the system. We spend too much money at the backdoor instead of the front door.

Most of the judges brought out the need for the probation officer to combine a rehabilitation role with an enforcement role. As explained by one judge, "probationers should be made accountable to society. Concomitantly, they should be given direction and encouragement not to recidivate." Although enforcement of the court's directives is important to the judges, they ideally like to see the probation officer help probationers get the resources and direction they need to keep from reoffending. Two of the judges stressed the primary goal is to assist the defendant toward rehabilitation. One of the areas that pleased judges most was when they observed a successful intervention made by a probation officer through a coordination of resources. As stated by one of the judges:

I think primarily it [the role of the probation officer] should be assisting probationers in rehabilitation--getting themselves on their feet in the community so that they can function without being institutionalized-- without

being dependent on anyone. Obviously, to do this with some individuals they have to act like policemen. They need to isolate those who are receptive to probation services from those who are not, and who, left to their own devices, get arrested again. There is no way the probation officer can realistically supervise everyone effectively. But, I think the goal should be to get as many of these folks as possible out of the system....I am particularly pleased when something constructive is done by getting people together to deal effectively with a particular or unusual problem--a coordination of resources.

Independent judgment. Another area touched upon by each of the judges was the value of the probation officer's recommendations presented in the form of written and oral reports to the court. One of the judges mentioned he trusts an active and contributing probation officer to provide him the best information. He explained that this is because the probation officer's recommendations are formed from a position of neutrality, unlike the district attorney and defense counsel. This was similarly expressed by another judge, who said:

What I value most is when a probation officer speaks his/her mind. In my opinion, the probation officer should be independent of the judge, the prosecutor, and the defense. He or she should not be influenced by the plea and should take an independent viewing of the case and recommend accordingly. The probation officer may disagree with the plea based on factors the judge has not had the opportunity to consider. It may very well be that, after consideration of these factors, the judge will agree completely with the assessment the probation officer has made. So, I would much rather the probation officer disagree with an indicated sentence [a plea entered with indication from the court as to what the sentence will be]. Even when the judge does not agree with, or sentence, according to the probation officer's recommendation it may well turn out in the long run that he or she was right... Recommendations should be independent, objective, honest, and should be made on a case by case basis. Probation officers should not become hardened by the routine. They should avoid thinking of recommendations in terms of the *average* or *typical* case.

This judge felt that probation officers would frequently treat cases similarly and offered "typical" recommendations. He cautioned against doing this and elaborated on the

importance of the independent viewing on a "case by case" basis. Another judge said his relationship with probation has improved considerably over the years, however, the tendency to lump cases together is something that has frustrated him, "In my opinion there has been an apparent lack of recognition between the difference of somebody who is on probation for possession of cocaine, and somebody who is on for armed robbery."

Communication. Good communication from the probation officer was brought up by all of the judges as being very important to them. One judge found the telephone to be an effective way to take care of simple matters in which there was not a concern about ex-parte [without the presence of all parties, i.e., the defense counsel and the prosecutor] communication on a case. He said that his communication with probation officers has improved over the past few years. He attributed this to his reliance on phones rather than requests for reports on simple matters. He explained, "This is due to recognizing that paperwork is nice but that direct communication can cut through the crap. That way, things don't have to be calendared and people don't have to be rounded up." He went on to say how the communication has improved since there has been a probation officer assigned to his courtroom for the criminal calendar, but added that he understood that this arrangement was not working as well for other judges:

One area that has been improved and could continue to be improved is having a knowledgeable probation officer in court to cut through the crap and be able to make some decisions in court without having to serially continue probation matters in order to get more information from the probation officer. I have an aggressive probation officer in my courtroom presently. Some of the probation officers that fill my courtroom are not as aggressive--are reluctant to interview someone on the spot or make a recommendation on the spot. Either they are apprehensive approaching the defendant in the orange suit [in custody] or they are apprehensive to make a recommendation on someone else's case. It may be a case of someone who got sloppy with reporting to his probation officer that we could take care of on the spot. The officer would much rather the defendant stay in custody another two weeks and be interviewed by their regular probation officer for a report, when it is my feeling that I could get the

information in two minutes. The D.A. is supposed to run a *rap* [criminal record] on the individual before they come into court. If there are no other warrants and it is a simple matter, why keep an individual in custody another ten days and have the guy lose his job and make matters worse. Sure, some people have no reliable explanation and get what they deserve, but there is a need for more aggressive decision-making in court.

Probation officers in the Courtroom. The desire to have probation officers who are both knowledgeable and vocal in the courtroom was expressed more strongly by other judges, as was their dissatisfaction with the present court officer arrangement. One judge observed that the probation officers who go to court are not active or vocal in the courtroom. This judge noted that years ago probation officers regularly spoke up in court and made on-the-spot recommendations. He attributed this less active role to changing departmental policy which he said, "restricts the probation officer from being critical or adding input on a case that is supervised by someone else." He added, "This is true even if there is new information to be considered that comes out in the court process. It makes me feel that the court officer is useless." He said that this was particularly frustrating to him because he feels that he can trust a knowledgeable probation officer who speaks up to provide him the most credible information.

All the judges indicated that the probation service in the courtroom is not currently what they would like it to be. Their frustrations with the current arrangement are that the court probation officers are not active in court and do not seem to be prepared or know the cases that come to court. One judge commented:

I am frustrated with the lack of familiarity with files. We get a probation officer who is a mouthpiece on another officer's case more often than notIn court, the officer is often not familiar with the file and cannot answer the questions I have. Some probation officers are an active part of the process, whereas others may as well be part of the wall.

All the judges commented on being pleased by competent service in the courtroom. One judge mentioned that he has seen improvement since the probation department has placed an officer in each felony court over the prior arrangement of one officer trying to cover all three. However, he also felt that improvement could continue to be made by having the supervision officer in court. This kind of direct service is what judges believe will give them what they want in the courtroom. "To know the file and to know the probationer," is what one judge said would please him most. Another judge said:

It is also pleasant, every once in awhile, when after the defense attorney, the district attorney and I have put together some disposition--if for no other reason, to expedite matters on somebody well known to the probation department--and the probation officer says, "Wait! Halt! We can't do this again. We all know this is not going to work."

All the judges indicated that direct and informed communication in the courtroom is important to them. Having a probation officer in court who can speak clearly and articulate his/her position was what one judge said he would like most from probation. Another judge stated:

I am pleased most when I have a human being expressing an opinion in my courtroom and it's an honest one....I value a free-flow of ideas and discussion, as I feel that the outcome will be better. I actually feel more comfortable with disagreement because I know that I can trust that it is honest, and not meant to please the court.

Judges indicated that the improvement of service in the courtroom is an area that they would like probation to focus on. One judge specifically suggested that supervision officers be assigned probationers by court, instead of alphabetically, as is presently done. This would present the opportunity to have the supervision officer also be the court officer, i.e., more direct involvement in court cases from probation.

I would like probation officers to have the ability to be active in the court process and to be able to make a recommendation in each case. The potentially most effective tool in the justice system is probation. It is unfortunate, but probation has become a bad word. It is seen as ineffective and that has to do with the tremendous workload. There is a need for real casework. The problem is that politicians are not honest and do not put the emphasis and value on probation where it should be.

Compilation of the Structured Interview Questions

As was the case in the unstructured interview, there was a significant amount of agreement between judges' responses to the structured questions. The following is a compilation of the judges' responses. This is based on the mean response among four judges in questions 1-9, and all five judges in questions 10a, b and c. (Refer to Appendix B for a complete listing of questions and average judges' responses which are highlighted. There were no responses that covered a range greater than three categories. Most responses were in adjacent categories.)

While judges generally agreed that a presentence investigation officer can be helpful in court, they would prefer to have the supervision officer in the courtroom during the criminal court calendar. The judges felt that they only "sometimes" as opposed to "always" or "frequently" get the information they request in court from the probation officer in the present conditions. They added that when information they request in court is not available, they: (a) "frequently" keep an individual in custody longer, (b) "frequently" continue or delay a case until they can get the information they desire, (c) "frequently" request either a supplemental report or the court presence of the supervision officer of the case, and (d) "sometimes" will release an individual prematurely.

The judges "agree" that they could make more informed decisions on cases in the present court officer arrangement over having no probation officer in court. One judge qualified his response by adding that this is if the officer is prepared. Judges either

"agreed" or "strongly agreed" that they would prefer to have the supervision officer in court over the present court officer arrangement of a presentence investigator.

The judges "disagreed" with the statement that they are generally satisfied with the current level of service offered in their courtrooms and "strongly agreed" that there is room for improvement of service offered by probation in their courtrooms. All five judges indicated that they would be willing to cooperate with probation in order to have improved service in the courtroom.

CHAPTER V

Probation Officer Survey

Research Questions

Judges' perceptions as noted in their responses to survey questions served as a springboard for survey questions put to probation officers. The responses to questions in the judges' surveys agreed with the theory that judges felt courtroom service and the communication between judges and probation officers were areas that needed improvement. Would the perceptions of probation officers correspond with the perceptions of judges?

Procedures

Two sets of survey questions were constructed: one, to assess the perceptions of investigation officers, and another, to assess the perceptions of supervision officers on courtroom service offered by probation. As with the judges' interviews, the probation officer surveys were administered while investigation officers were in charge of courtroom coverage. Supervision officers were responsible to update information in the case files pertinent to the court matters *on calendar*.

The elite interview technique was not utilized in the probation study for two reasons. First, by mandate, the probation officer serves the judge at his/her direction. It was felt that an emphasis on the judges' definition of the problem was appropriate and a structured survey schedule would allow the research to maintain focus in this area. Second, it was felt that a *face-to-face* interview by the author might inhibit candid expression from respondents, as the author was employed as a probation officer with the Santa Cruz County Probation Department.

The survey contained questions to assess the level of satisfaction with the current court coverage offered by probation, to ascertain whether improvement in this area was desired,

and to determine if they felt that coverage would improve if probation officers were able to appear in court on their own cases.

All adult investigation and adult supervision officers (with the exception of those handling intensive or specialized caseloads) in the Santa Cruz County Probation Department were given questionnaires on March 16, 1995. The sample included six supervision officers and four investigation officers (the investigation unit was short two staff members due to a retirement and a promotion). The questionnaires were not handed out by the researcher. Instead, they were passed out by another probation officer. This was done to make responses as anonymous as possible. Respondents were asked not to include their name with the survey. Responses to questions were recorded using a ranked scale. (See Appendix C and D for a copy of the investigation officer survey and the supervision officer survey). The mean response to each question is included for the reader along with a range, i.e., number of categories covered in the responses. Also noted are questions in which responses were split, i.e., half the respondents feeling one way and the other half feeling differently. A descriptive representation rather than statistical treatment of the data will be made in the findings section due to the small sample size.

Findings

Investigation officers' responses. While investigation officers felt they "frequently" had the information they needed in court from supervision officers, they agreed that there was room for improvement in the information they received. Some investigation officers felt they had enough time to prepare for court while others did not. They felt that regardless of the amount of preparation, there were times when the judge would ask unanticipated questions. When responding to the statement that they were asked for information in court that they did not have regarding a supervision officer's case, their responses fell between "sometimes" and "seldom." Their responses fell between "sometimes" and

"seldom" to the statement that they were asked for information in court that they did not have regarding a supervision officers case. Investigation officers responded between "sometimes" and "frequently" that supervision officers could better answer the unanticipated questions if they were in court themselves. They felt that there would "sometimes" be less continuances if supervision officers were in court on their own cases.

When new information unknown to the supervision officer is revealed in court, investigation officers' mean response fell between "neutral" and "disagree" that they felt comfortable changing a probation officer's recommendation in the courtroom. There was consensus that investigators do not feel comfortable conducting a short interview with a probationer in the courtroom and offering the judge a recommendation on a case assigned to another probation officer. However, investigators would not go as far as to say that they would never make a recommendation on another probation officer's case.

Investigation officers noted that they "sometimes" have difficulty reading and/or understanding handwritten notes from the supervision officer. They said they "sometimes" have difficulty understanding handwritten notes from the supervision officers and "sometimes" have difficulty getting files from the supervision officers for court; however, they "seldom" have difficulty returning the files to the supervision officers.

When asked to rank reasons they might not speak up in court, the two most popular responses were that they did not feel knowledgeable about the case or they did not feel comfortable putting forth an opinion or changing a recommendation in another probation officer's case. Consensus existed among the investigation officers in that they "agreed" that court coverage would improve if probation officers could appear on their own cases.

Listed below are investigation officers' written responses to the following leading statement: "I believe the court officer position could best be improved by..."

...either officers being present for their own cases or an intense briefing [with the officer] before court. Also, it would help tremendously to have the judges soliciting input. [One judge] does that, and seems to go with probation's recommendation 90% of the time.

...placing experienced officers in court who do not have a problem speaking up. A new probation officer could not possibly have the experience to answer questions that come up in court, daily.

...I would like it to be set up so that probation is on top of the calendar [first thing in the morning] and can leave earlier. If we are just needed for probation violations, we should be there for only a short time.

...preparing presentence reports referred from that court and supervising most cases placed on probation from that court--especially serious or *high-profile* cases.

Summary of supervision officer survey. Supervision officers felt that the notes they received from court officers "sometimes" gave them adequate information of what happened in court. In contrast to the investigation officers who felt they "seldom" had difficulty returning files to supervision officers, supervision officers noted that they "sometimes" had difficulty getting files back after court and they "sometimes" had difficulty understanding the handwritten notes from the court officer.

There was not consensus among supervision officers as to whether it was acceptable for a court officer to change one of their recommendations if new information that might effect the recommendation came out in the court process; half of the officers agreed that it was acceptable, and half did not. Similarly, half the supervision officers felt that it was not acceptable for a court officer to conduct a short courtroom interview on one of their cases, while the other half did not mind. It is speculated that this split may be due to a

combination of new and older staff, new staff may not mind the court officer overriding a recommendation as much as an experienced staff.

There was not consensus among supervision officers in their perceptions as to whether court delays would be fewer if they were present in court; however, they "agreed" that there are some probation violations which could be immediately resolved if they could conduct a short interview in the courtroom. Most officers "agreed" that they were comfortable speaking up in court, particularly in reference to one of their own cases.

Supervision officers felt that judges "sometimes" impose sentences on their probationers without their input which may have altered the sentence given. They "agreed" that if they were present in court, their probationers would be less able to manipulate the court to their own advantage. They also "agreed" that court coverage would improve if they were able to appear on their own cases.

Overall, the supervision officers felt that the court officer does the best he/she can in court. Most of them expressed pleasure at the coverage they provided and feel that the court officer usually has the information they need and accurately communicates information to judges. However, most supervision officers would like to go to court on their own cases. Supervision officers noted that there was room for improvement of court coverage.

Listed below are supervision officers' written responses to the following leading statement: "I believe the court officer position could best be improved by...

...assigning officers to go to court on their own cases. Having supervision officers covering court routinely. The investigation reports speak for themselves. It is always in regard to probation violations that questions arise in court.

...more direct communication. Also, [it would be improved] if probation officers could go to court with their own probationers. I would like more communication, input and information with the D.A. and the Public Defender.

...I always thought that we should reorganize to a system...where probation violations and sentencings were consolidated. Investigators could be in court for pleas and presentence report referrals, and supervision officers could be present for violations of probation. With more than one department hearing criminal matters / probation violations as we have, it would probably be even more effective to have probation officer's cases assigned from one court , i.e., vertical prosecution, I guess. The mish-mashing of sentencings, motions, violations of probation, preliminary hearings, etc., on one calendar seems very disorganized and inefficient to me.

...if we were able to discuss each case briefly before the court officer goes to court.

...having officers in all courts, municipal and superior.

...by having probation officers represent their own cases in court.

Investigation and supervision officers' responses indicate that there are not standard expectations or procedures for court officers. There did not seem to be agreement as to how free probation officers covering court were to make or change recommendations on another probation officer's case. In reviewing the ranked responses, an appreciation for the court officer position can be seen. Investigation and supervision officers also indicated that they felt courtroom service would improve if probation officers were able to appear for their own cases. This was particularly apparent in their written responses regarding how they felt courtroom service could improve.

CHAPTER VI

Court Data and Client Contact

Research Questions

Are the perceptions of probation officers and judges supported by real events that take place in the courtroom? Is there any indication of loose coupling that can be observed in court outcomes? Would it be an efficient use of a supervision officer's time to be in court, or would it take away from opportunities to conduct casework?

There are innumerable types of data that could be collected in an attempt to answer these questions. Given time limitations, only a few areas were investigated in this study.

The Data

Answers to the above questions were sought by collecting the following data:

(a) All court action pertaining to probation matters in the three Santa Cruz County felony courts from April through June 1994; (b) the number of face-to-face contacts between probation officer and probationer within the week of September 18 through 22, 1995, and (c) the number of formal probation grants ordered with and without presentence investigation reports between the time period of January through May, 1995.

Procedures

To observe the amount and type of activity pertaining to probation on the criminal court calendar, a database was created and every court outcome which involved probation was entered for a three month period from April through June of 1994. Included were the following: (a) all referrals for presentence investigation reports, (b) individuals sentenced to the California Department of Corrections with a presentence report; (c) active formal probation cases sentenced with a presentence investigation report on a new/subsequent offense, (c) cases sentenced to formal probation without a

presentence investigation report, and (d) all supervision matters (including probation violation arraignments and hearings, modifications and reviews).

According to probation administration staff, up until five years ago it was rare for a presentence investigation to be waived after a felony conviction (J. Rapoza, Adult Court Services Division Director, personal interview, October 6th, 1995). Data was collected regarding the reliance on presentence investigation referrals by judges as one measure to assess an indication of loose coupling between the judges and probation officers. All formal probation referrals were tracked and reviewed from January through May 1995 to determine how many were sentenced with a presentence investigation report, and how many without. Data was not collected on probation files five years or older as they were not accessible.

Judges and probation officers indicated they felt courtroom service would be improved if supervision officers were present. Supervision officers were not assigned to cover the criminal court calendar as it was felt, given the large caseloads, that it would take too much time. Therefore, face-to-face probationer and probation officer contact in the office was compared to potential face-to-face contacts extrapolated from the court data collected. This could provide an indication as to whether the supervision officer's presence in court would interfere with or promote casework. During the period of Monday, September 18, 1995 through Friday, September 22, 1995, all face-to-face office visits between supervision officers were noted by the receptionist in the Santa Cruz and Watsonville offices. All face-to-face contacts between the six supervision officers and probationers were noted. Included were scheduled appointments and non-appointments (walk-in's). Also noted were walk-in probationers who were not seen by their probation officer even though the officer was in the office. Supervision officers were not told that the survey was being conducted to eliminate a potential "Hawthorne effect."

Findings

Figure 2 illustrates the amount and type of activity on the criminal court calendar during the months of April, May and June, 1994. Beginning at the top of the chart and moving clockwise, we see that 50 (8.7%) of the cases were sentenced to formal probation without a presentence investigation report. Another 58 (10.1%) cases had one or more active formal probation case and were being sentenced to formal probation again. There were 36 (6.3%) of the cases sentenced to formal probation, for the first time, with a presentence investigation report. Twelve (2.1%) of the people were sent to prison with a presentence investigation report. There were 76 (13.2%) referrals for presentence investigation reports during this time. The remaining 342 (59%) of the court matters were violations and modifications of formal probation cases.

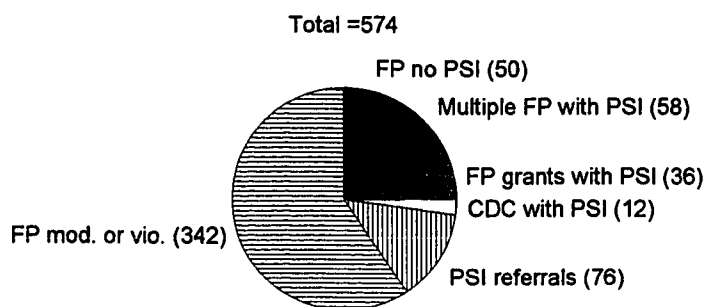


Figure 2. All court events from April through June, 1994 involving probation. This includes: formal probation cases (FP), presentence investigation (PSI) referrals, sentences to formal probation (grants) with a PSI, or California Department of Corrections (CDC) sentences with a PSI.

The categories which involve the presentence investigation officers would be those in which a presentence investigation report was prepared or a referral for a presentence report was made (182 cases).

In addition to the 342 formal probation matters, there are other categories that have relevance to a supervision officer. They include all 144 cases sentenced to formal probation, and most of the cases that are referred for a presentence investigation report, which, based on this data, would be most of them. Therefore, all but approximately two percent of the criminal court cases involving probation are relevant to the supervision officer.

If the supervision officer who supervised the court probationer was in court, the data indicates that three probationers would have face-to-face contact with their probation officer per day. If the defendants going through the court process who are sentenced to formal probation are included in this calculation, three people would have face-to-face contact with their probation officer per day. The survey of face-to-face office visits from Monday, September 18 through Friday, September 22, 1995 revealed that the probation officers saw an average of one probationer a day. There were two probationers during the week who tried to see their probation officer without an appointment (walk-in's) but were not seen. Thirty eight percent of the probationers seen were walk-in's.

These findings indicate that approximately three probationers would be seen during the morning court calendar than are currently seen in a day in the office. It is important to note that this was only a one week study and the sample size was smaller than anticipated during this time. It should also be noted that walk-in's are more likely to occur at the beginning of a month. This is due to general instructions given to probationers to report by mail at the beginning of each month; some probationers prefer to try and see their probation officer in person. Therefore, a study conducted for an entire month would likely

increase face-to-face contacts with walk-in clients providing they were received by their probation officers. A longer study was not a feasible request to make of reception staffs' time.

Figure 3 shows the results of the formal probation referrals with a presentence investigation report and those referrals without a presentence investigation report. Of the 639 referrals received from January through May of 1995, there were 377 or 59 percent sentenced without a presentence report. This data indicates change in that formal felony probation grants without presentence investigation reports were rare six years ago.

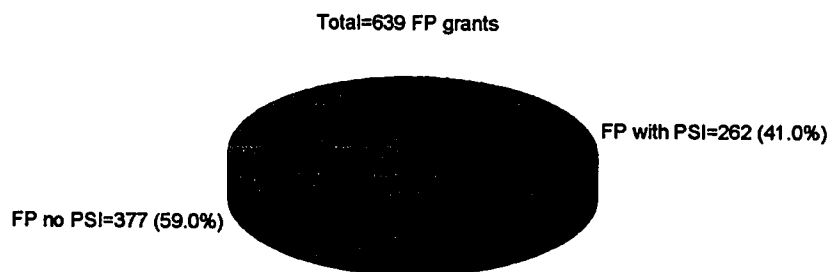


Figure 3. All formal probation grants (FP) with presentence investigation reports (PSI), and without presentence investigation reports, from the three felony courts from January through May, 1995.

CHAPTER VII

DISCUSSION

Cushman and Sechrest (1992), in their comprehensive look at probation, recommend that probation management become more "system" oriented. They write:

...It is not unusual for probation officials to turn inward in their examination of the probation service. After all, their day-to-day focus is on improving the operation of the probation agency. It is clear, however, that the singular focus on matters which are internal to the probation agency will be ineffective. It will quickly produce a probation administration with blinders on. Probation can be much better understood within the context of the justice system as a whole....The material here calls for a new perspective--a reorientation of thinking by probation managers who remain insulated within their own organizational boundaries. They will need to do much more to manage the forces which are external to the probation agency. More energy and attention need to be focused *out* toward the system and less *in* on the agency itself (p.27).

In agreement with Cushman and Sechrest's argument, the perspective taken in this research is to find solutions to problems within the probation department by looking outside the agency. In this thesis, literature was reviewed on loosely coupled systems and bureaucratization to lay the theoretical groundwork relevant to the methodology and to an understanding of the problems investigated.

Three sources of data, judges' perceptions, probation officers' perceptions and court outcomes were collected and the findings have been viewed independently. Together, these findings provide a picture of the problem from different vantage points. The findings of the triangulated data suggest that a loose coupling between judges and probation officers has occurred and is related to bureaucratization of probation service, particularly in the courtroom.

While the judges in Santa Cruz County felony courts understand the workload demands of probation officers, they are not satisfied with the arrangement of courtroom service provided by probation. This is primarily due to what they perceived to be a lack of preparation and direct involvement with cases. Although over one-third of the time spent on court officer duties is in preparation for court, judges said these court officers do not seem prepared. When looking at the perceptions of probation officers, further validation of this problem is found; they, too, would like to see the court officer be the person more directly involved with cases.

The judges mentioned a frustration with probation officers not speaking up in court. They felt that this lack of participation makes them unresponsive to the needs of the court. The origin of this problem can be understood by considering that many of the probation officers are opposed to making or changing recommendations on a case belonging to someone else. This is true even if new information is presented in the courtroom. Probation officers felt that having the probation officers in court who supervise the probationers: (a) could better inform judges, (b) would result in more expeditious handling of cases, and (c) would result in less attempts from defendants to manipulate the court.

Another concern brought out by judges was a tendency to treat cases routinely by making a "typical" recommendation. As one judge stated, "In my opinion, there has been an apparent lack of recognition between the difference of somebody who is on probation for possession of cocaine, and somebody who is on for armed robbery." The standardized treatment of cases regardless of dissimilar case factors is an example of bureaucratization as operationally defined by Tepperman (1973), reviewed earlier in this study.

While judges would like direct input and communication from the probation officers who supervise those they place on probation, they realized that probation officers are

taxed by the workload. The judges were critical, but also expressed a desire to work more effectively with the probation department. They expressed the value of having an informed probation officer who contributes orally in the court process on probation matters. They appreciate when probation officers exercise their independent judgment in their recommendations and feel that good communication is needed.

Other data collected in the course of this research contributes to an understanding of the problem. Court outcomes pertaining to probation indicate that, in terms of direct courtroom service, the wrong probation officer is in the courtroom. There is a greater percentage of cases on the daily court calendar pertaining to a supervision officer's work than cases pertaining to a presentence investigator's work. Further, many of the cases that are handled by a presentence investigator have relevance to a supervision officer's job; most of the presentence investigations were prepared on defendants already on formal probation. The data showed that nearly everyone handled by a presentence investigation officer was placed on probation, with the exception of 12 individuals who were sentenced to prisons.

Of the court data, most interesting to the author was the number of people placed on formal probation without a presentence investigation report. There has been a tremendous increase in the amount of people placed on probation without a presentence investigation report in recent years. According to an administrator of adult court services, prior to five years ago presentence reports were rarely waived. Today, they are waived more than half of the time (refer to Figure 3).

The amount of formal probation grants without a presentence investigation report is indicative of a loose coupling, if not a decoupling, that exists between judges and probation officers. It also represents a decoupling between the presentence investigator and the supervision officer. This is due to the fact that the presentence investigation is not

only useful to the court in making a sentencing decision, it is also useful to the supervision officer.

Supervision officers once received files which contained presentence investigation reports on the felons they supervised. This gave the officer information to assist him/her in developing a plan for supervision. Presently, many of the files a supervision officer receives contain little more than a copy of the court's sentence, outlining the terms and conditions of probation. While the statistics on presentence report referrals are not directly related to loose coupling in the courtroom, it does speak to the importance of tightening the coupling between judges and supervision officers in the courtroom.

The court data indicated an untapped opportunity to reach probationers in court who were not being seen by the supervision officer. If the supervision officers who would be supervising the 59% sentenced to formal probation without a presentence investigation report had an ongoing presence in the courtroom, the opportunity would exist to make face-to-face contact from the beginning of a probation grant. Knowing that s/he would be supervising the case, the probation officer would have an investment in offering some input at sentencing in the form of recommendations. This would tighten the coupling between probation officer and judge, as well as probation officer and probationer. The opportunity to offer input as pleas are negotiated might also exist, i.e., tightening the coupling between probation officer and district attorney. Indeed, there are other elements of the system, such as service providers, defense counsel, jail staff, and defendants, where tighter coupling may be achieved.

The data on court outcomes suggest that if supervision officers were able to be present in court on their own cases, they would have face-to-face contact with nearly three probationers during the morning criminal calendar which lasts approximately two hours a day (according to probation department statistics reported by court probation officers

August and September 1995). This data reflects the red-tape associated with some probation work today.

If most of the probation officer's day is not spent with clients, then what is the probation officer doing? Data was not collected on the amount of case contacts a probation officer makes by phone a day, but it is speculated that they are significant. The supervision officer spends a great deal of time preparing reports and sifting through paper work, such as information from probationers and court documents. While the probation officers who oversee *intensive* supervision caseloads get out in the field to see clients, supervision officers with *regular* caseloads seldom do so. The supervision of these larger caseloads is done primarily by mail, which includes monthly reports and documentation to verify compliance.

The data indicates that, if in court, probation officers could see, in two hours, more probationers than they are presently seeing in the course of an entire workday. Additionally, family members, employers, and counselors frequently appear on behalf of probationers. This presents the opportunity to make collateral contacts which could prove to be valuable in the supervision of a case. This is also true for victims of crimes who may appear for sentencing. The data indicates that a regular presence in the courtroom may provide an opportunity to tighten the coupling between the probationer and probation officer, as well as other parties with an interest in the supervision of the probationer.

Supervision officers were removed from regular courtroom service as it was seen as a waste of time; had the courts not reorganized a three court system, this may still be true as the daily calendar could take too long. Now that there are three courts and shorter criminal calendars, efficiency may be enhanced if, in addition to his/her traditional duties, the time a probation officer is in the courtroom is viewed an opportunity to: (a) expedite the court process, (b) lessen the need for continuances for interviews and supplemental

reports, (c) make personal contacts with probationers and individuals significant to supervision, (d) make referrals for probationers to services, and (e) gather information relevant to the supervision of offenders.

Much of the discussion in this paper has concentrated on the distinction between supervision officers and investigation officers. The real issue, however, according to the judges and probation officers and supported by the other data collected, centers around the need for direct communication. The probation department's response to growth over the years has been a withdrawal--away from the courts and inward toward the tasks that have seemed more pressing. Courtroom service has been viewed more as a luxury for which supervision officers do not have time. Judges, under similar workload demands, find themselves acting on less information in the courtroom. According to Hagan et al. (1979):

...reliance on the professional judgments of probation officers is a workable solution to the disposition dilemmas of individualized justice only insofar as these recommendations do not seriously impede the efficiency needs of the court organization. It is only under these conditions that the organization can function as a tightly coupled system. Alternately, a problem arises when efficiency needs require outcomes different from those recommended by probation officers. It is under these circumstances that decoupling becomes a means of ceremonially preserving the myth of individualization (p.510).

Although the above quote was in reference to examination of the presentence report, a similar "decoupling" has taken place occurring between judges and probation officers in Santa Cruz County. Decisions directly affecting probation are being made regularly in the courtroom without input of the probation officer involved. If probation has become disengaged or decoupled from the courtroom process, the content of the interviews suggest that this is not due to a lack of appreciation of the potential for probation to be a valuable asset to judges. Rather, it has to do with the incompatibility of organizational

function with current court structures. The decoupling does not appear to be a result of conflict between these elements of the larger system. It appears to be a consequence of bureaucratization in the face of growth in workload. If loose coupling can be brought on by bureaucratization, could a restructuring conducive to tighter coupling between elements of a system promote a reduction of bureaucratization? It is the author's contention that it can because bureaucratization is a common, but unnecessary, by-product of growth in workload. Through a maintenance of tighter coupling between probation officers and judges, redundant and unnecessary tasks will be more observable and available for analysis. In the following section, a model for reorganization will be proposed, and relevant management theory will be discussed.

The Proposed Model

If one were to draw a schematic representation of bureaucracy, one may come up with something similar to Figure 1. By revisiting this figure, we can see the conditions under which problems thrive. With two potential court officers covering one of three courts in order to receive and give information to a judge and to any one of six supervision officers, the dissatisfaction among professionals working under this system can be understood. Supervision officers are reviewing cases and giving notes to investigation officers, who are also reviewing the same cases. The structure, with regard to the flow of information, is hierarchical and reflects the bureaucratization of courtroom service.

Private industry in recent years has recognized problems associated with hierarchical structures (Graham & Morris, 1994, ch.1). Teamwork has been used innovatively to combat these problems and has been widely recognized as successful. Research indicates that small teams are more effective than individuals or larger groups and the benefits of teamwork apply whether the task is climbing a mountain or working in an organization (Katzenback, 1993).

Figure 3 is a proposed model for Santa Cruz County courtroom service. Unlike a hierarchical model, the structure is relatively flat. Unlike the red-tape bureaucracy, the flow of work is simplified through a more direct approach created by teams. Case assignments are made respective of teams, rather than assignments by alphabet, where a probation officer can be assigned a case from any of the three courts. This structure should produce the benefits associated with teamwork and create tighter coupling between judges and probation officers. Although team members may choose to alternate days covering court, their relationship would be more tightly coupled than the previous structure, in that they would be covering each other's cases instead of covering cases for six other people.

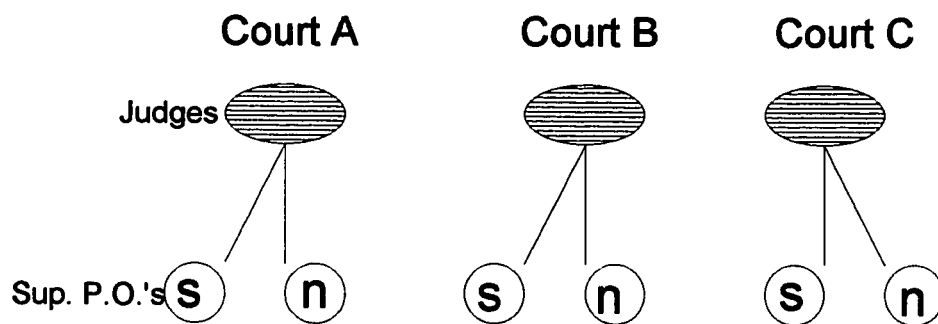


Figure 4. The flow of communication between supervision officers (Sup. P.O.'s) and judges under the proposed model. One probation officer from the south county (S) office and one probation officer from the north county (N) office will be assigned to each court team.

Recommendations could be readily offered and cases could be moved along expeditiously due to a more direct ownership of cases. The need for continuances to obtain a written report would be obviated in most cases by the opportunity to interview the probationer immediately in court. The opportunity for the supervision officer to conduct short interviews with defendants in violation of probation, to review the terms of

probation after being sentenced to probation, and to make referrals to probationers to services constructive to rehabilitation would be enhanced.

The proposed model invites two obvious questions: (a) how will this affect the presentence investigator? and (b) will the tight coupling in the courtroom service produce loose coupling in another area?

According to August and September 1995 statistics prepared by presentence investigating officers, two hours and 45 minutes of their time is taken each court day as a court officer. This includes two hours in court and 45 minutes in preparation for court. In other words, between the three felony courts, the presentence investigation officers spend 8 hours and 15 minutes a day on court officer duties. This time could be given back to presentence investigating officers to spend preparing presentence investigations, which are sorely needed. The team approach could be broadened to include the presentence investigator who currently conducts investigations for all courts by random assignment. Assignments of presentence investigation reports could be made by teams when possible. This could present an opportunity to tighten the coupling between presentence investigators and supervision officers, and could bring about a coordinated recommendation and case plan for supervision. One presentence investigator was in charge of coordinating the court calendar each day. This officer could continue to provide coordination, observation, and feedback between the court teams.

A restructuring of probation service in the courtroom does not guarantee that probation officers will speak up in court. New probation officers, in particular, may be intimidated by the formality of court proceedings. Pairing experienced staff with new staff could provide an opportunity for *on the job* training. While structurally, this proposed model will provide opportunity for more direct service, it does not guarantee that probation officers will speak up in court. Public speaking, particularly in the formal

setting of court, can be intimidating to new probation officers. Training and preparation will be essential for the new employee in acquiring the confidence to take an active role in court. While an active role in the courtroom may be stressful, it may also enhance the motivation to be well-informed and to avoid standardized treatment of dissimilar cases.

In response to the second question, the tight coupling within court teams will likely produce loose coupling in other areas. Close observation of the relationship between the presentence investigator and the supervision officer should be made to minimize potentially negative effects. Positive outcomes could also be attained in that the autonomy produced by the loosely coupled teams could create independent cultures for innovation. As long as there is observation, analysis, and feedback between teams, innovative ideas could be shared and adopted by the other teams. Because there is a *south county* probation officer and *north county* probation officer in each team, there will be interaction between teams after court when probation officers go back to their respective offices. This would allow for enough fluidity between teams to stave off potential problems that could arise from tight coupling. With a continuously watchful eye looking for opportunities to minimize red-tape and superfluous job tasks, south county and north county members may be able to pair up after court to accomplish visits of probationers in the field. This type of multi-disciplinary teaming should minimize the negative effects of loose coupling.

Summary and Implications for the Future

The field of probation, as well as other areas in criminal justice, has undergone tremendous growth in recent years. The response to growth, in itself, has created problems. One such area receiving little attention in the literature is the relationship between probation officer and judges. This study focuses on the relationship between probation officers and judges in the Santa Cruz County felony courtrooms.

The courtroom service offered by Santa Cruz County Probation has changed over the years. Probation officers once made frequent court appearances on their own cases. Court coverage today is handled by probation officers who cover for other probation officers.

This study takes a systems perspective in looking at the bureaucratization of probation with regard to its effects on courtroom service provided by probation to judges. It is this author's opinion that there is a need for improvement in the service provided by probation officers to judges in the felony courtrooms in Santa Cruz County, and that bureaucratization and systems theory could be used to understand the nature of the problem and to offer potential solutions.

Data triangulation was achieved through the use of three data sources, each offering a vantage point in looking at the problem. The elite interviews confirmed that, while judges had an appreciation of the potential for probation officers to provide an independent voice, they are concerned about the quality of courtroom service provided by probation officers. Judges expressed frustration over the indirect structure of courtroom service, i.e., the probation officer in court is not the probation officer directly involved in the case. Probation officers have similar concerns about the indirect service provided. Court and probation data validated the indirect structure of courtroom service.

The data lends support to the theory that bureaucratization and loose coupling has occurred in the courtroom service provided by probation to judges. Changes in response to the growing workload demands have negatively impacted informal communication mechanisms once experienced between judges and probation officers. This results in court delays and a lack of information judges value, particularly, the independent judgment of probation officers who supervise probationers.

A model is proposed to provide more direct service between judges and probation officers in the courtroom. Direct service will provide an opportunity to tighten the

coupling between judges and probation officers. Court teams will be created to promote effectiveness in the courtroom and to tighten coupling among probation officers and possibly other elements of the system, such as district attorneys, defense and probationers.

The work in this study is not intended to solve all of the problems facing probation. There is an ongoing need for more staff to create smaller caseloads. This continues to be one of the biggest obstacles in providing high quality service. However, this should not preclude innovative developments in tackling some of these problems. The withdrawal or loose coupling that has occurred to survive the increased work load has created a new problem; the relationship between probation and the judges, particularly in the courtroom, has suffered. By viewing probation as a subsystem of the larger justice system, and by recognizing that changes in one subsystem not only effect the other but can be used as an opportunity for change, we can begin to see innovative solutions.

This work is intended to address the problem of indirect service in the courtroom. The proposed model was presented to the Santa Cruz County Chief Probation Officer, administrators, probation line staff, and felony court judges. The model was embraced with enthusiasm by these professionals and was implemented in mid October, 1995. Initial feedback from judges and probation officers has been positive (see Appendix E for preliminary observations from the Chief of Probation regarding the impemented model). It has been recommended and plans have been made for ongoing evaluation of the new

system of court service¹. It is hoped that the theories proposed in this thesis will be used in combination with ongoing collection and analysis of data to continue to make improvements helpful in achieving the goals of probation.

The literature reviewed suggests that the findings in this study may be relevant to other jurisdictions; large caseloads and bureaucratization are universally recognized problems in today's criminal justice system. One negative consequence of loose coupling or decoupling that is observed in this and other research reviewed in this study is that the independent voice the probation officer can provide to the court may be in jeopardy. This may be a significant impediment to justice in that the non-adversarial voice of the probation officer, unbound by a predetermined position, has become increasingly removed from court proceedings. There is a need to look further into the value of the probation officer in the court room as a means to bring this voice back into the court process.

¹ Since implementation, judges have commented to the author that the new system is an improvement. One judge commented that the probation officers now have the impetus to handle matters in court whereas they did not under the prior system which was less direct. One Public Defender commented that probation officers are giving out cards and phone numbers directly after sentencing and that this did not occur previously. A bailiff in one of the courts commented that the new system may reduce jail overcrowding in that more matters were being handled in court rather than referred back to the probation department for a report.

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APPENDICES
INTERVIEW SCHEDULES AND SURVEY INSTRUMENTS

Appendix A

Judges' Interview Schedule

1. How long have you been in your position? Have you worked criminal cases this entire time? If not, explain:
 2. What are the most notable changes you have observed during your judgeship in the working relationship between probation and the courts?
 3. What are the most notable changes you have observed during your judgeship in the relationship between probation officers and probationers?
 4. In what way are, or could, probation officers be most helpful to judges? How close to achieving this is probation?
 5. What is your idea of the goals of probation and what do you believe the probation officers' duties should be in achieving these goals?
 6. What is your biggest frustration with probation?
 7. Complete the following: I am most pleased with probation when...
 8. The problem that I would like probation to focus on most, and which would be most helpful to me, is?
-

Appendix B

Interview Schedule of the Criminal Court Judges

Name: _____

Present assignment: _____ from: _____ to: _____

Judgeship since: _____

Please specify which of the following statements most apply:

1. Having a presentence investigator in court during the criminal court calendar is useful.

strongly disagree disagree **agree** strongly agree

2. Having the supervision officer in who supervises the probationers in my court during the criminal court calendar is useful.

strongly disagree disagree agree **strongly agree**

3. I would prefer to have presentence investigators in court during the criminal calendar than the supervision officer who supervises the probationers.

strongly disagree **disagree** **agree** strongly agree

[Responses fell between the two categories. Two judges noted that they didn't care who was in court, as long as they were active.]

4. Under the current system of presentence investigators covering the criminal calendar, I feel:

a. They are able to provide information I request pertaining to probation matters.

never **sometimes** frequently always

b. The information is not available and I have to request a supplemental report or the presence of the supervision probation officer.

never **sometimes** **frequently** always

c. When the information is not available, I am apt to continue or delay the case until I can get the information.

never sometimes **frequently** always

d. When the information is not available, a defendant may remain in custody longer.

never sometimes **frequently** always

e. When the information is not available, I may release an individual prematurely.

never **sometimes** frequently always

5. I am able to make more informed decisions on cases when an investigating officer is in court vs. no officer at all.

strongly disagree disagree **agree** strongly agree

6. I am able to make more informed decisions when the supervision officer is in court vs. no probation officer at all.

strongly disagree disagree **agree** strongly agree

7. I believe I could make more informed decisions if the supervision officer was in court vs. the presentence investigator.

strongly disagree disagree **agree** strongly agree

8. I am generally satisfied with the current level of service offered by probation in my courtroom.

strongly disagree **disagree** agree strongly agree

9. I feel there is room for improvement of court services offered by probation in my courtroom.

strongly disagree disagree **agree** strongly agree

10. In order to have improved service offered by probation in my courtroom, I would be willing to:

a. Consolidate probation matters as much as possible so that the P.O.'s time in court is minimal.

yes

no

b. Create a time and space for P.O.'s to conduct short interviews to gather information and make referrals in court.

yes

no

c. Would voice my support for the P.O.'s to get a computer in court.

yes

no

11. Is there anything you would like to add?

No

Thank you for your help and time.

Appendix C

Investigation Officer Survey

The following questions and answer categories were given to the four probation officers assigned to write presentence investigation reports. Below, the response choices is the mean response given and the range or the number of categories covered in the responses.

1. The supervision probation officers provide me with the information I need in court.

5	4	3	2	1
never	seldom	sometimes	frequently	always

average response: frequently (2.25) range: 2 categories

2. I feel that there is room for improvement in the information I receive from the supervision officer for court.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: agree (3.75) range: 2 categories

3. The judge asks me for information in court that I do not have regarding a supervision officer's case.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: seldom/sometimes (2.5) range: 2 categories

4. I feel my role in court is largely that of a *go between* for the supervision officers and the judge.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: disagree (2) range: 3 categories

5. I have sufficient time to prepare for court.

5	4	3	2	1
strongly disagree	disagree	neutral	agree	strongly agree

average response: neutral (3.25) range: 3 categories

6. There are unanticipated questions from the judge regardless of the amount of time I prepare for court.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: sometimes (2.75) range: 3 categories

7. When there are unanticipated questions, I feel the supervision officer assigned to the case could probably answer them, if present in court, approximately...

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: sometimes/frequently (3.5) range: 2 categories

8. Cases have to be continued to get information from the supervising probation officer.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: sometimes (3) range: 3 categories

9. If new information comes out in the court process, I feel comfortable changing a probation officer's recommendation in court.

5	4	3	2	1
strongly disagree	disagree	neutral	agree	strongly agree

average response: disagree/neutral (3.5) range: 3 categories

10. I feel comfortable conducting a short interview in court and offering the judge a recommendation on a case assigned to another officer.

5	4	3	2	1
strongly disagree	disagree	neutral	agree	strongly agree

average response: disagree (4.25) range: 2 categories

11. I should never make a recommendation on another probation officer's case.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: disagree/neutral (2.5) range: 3 categories

12. I have difficulty getting files from the supervision officer.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: sometimes (3) range: 3 categories

13. I have difficulty returning files in a timely manner.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: seldom (1.75) range: 2 categories

14. I have difficulty either reading and/or understanding handwritten notes from the supervision officer.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: sometimes (2.75) range: 3 categories

15. Rank the following responses in order of relevance, with #1 being the most relevant.

Only rank

When I don't speak up in court it is because...

- ☐ I have a difficult time speaking in public.
- ☐ I do not feel knowledgeable about the case.
- ☐ I feel that the judge is asking me to override another officer's opinion and this makes me uncomfortable.
- ☐ I don't believe a court officer should speak in court on someone else's case.
- ☐ The judge is asking me to make a recommendation on someone else's case and I feel that the supervising probation officer should make the recommendation.

☐ Other: _____

All ranked responses were given a numerical value so that the highest ranked response received the highest score; responses ranked #1 were given 6 points and unranked responses were given 0 points. No respondent ranked more than 5 relevant responses. This way, all responses could be compiled from the most to least relevant, including responses written in the 'other' category.

Listed below are the results of the tallied responses in ranked order with 1. corresponding to the highest ranked response and 7. corresponding to the lowest ranked response. There was a tie for the fourth most relevant response.

1. *I do not feel knowledgeable about the case.*
2. *I feel that the judge is asking me to override another officer's opinion and this makes me uncomfortable.*
3. *The judge is asking me to make a recommendation on someone else's case and I feel that the supervising probation officer should make the recommendation.*
4. *All the information has been given. If it has not, I'll speak up.*
and:
It is hard to get a word in edgewise and the attorneys and most judges don't solicit input.
5. *It's not appropriate, at the time.*
6. *I don't believe a court officer should speak in court on someone else's case.*
7. *I have a difficult time speaking in public.*

16. I believe court coverage would be better if officers could be present on their own cases.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: agree (4.33) range:2 categories

Please briefly complete the following statement:

17. I believe the court officer position could best be improved by...

Thank you for your participation.

Appendix D

Supervision Officer Survey

Please circle the answer that most applies:

1. The notes I receive from the court officer adequately inform me of what happened in court.

5	4	3	2	1
never	seldom	sometimes	frequently	always

average response: sometimes (2.9) range: 3 categories

2. Court delays due to a need for further information would be fewer if I were present in court.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: neutral (2.66) range: 4 categories

3. I find it acceptable for a court officer to change my recommendation if new information comes out in the court process.

5	4	3	2	1
strongly disagree	disagree	neutral	agree	strongly agree

average response: neutral (3) range: 3 categories (split responses)

4. I find it acceptable for a court officer to conduct a short courtroom interview with my probationer and make a recommendation to the judge.

5	4	3	2	1
strongly disagree	disagree	neutral	agree	strongly agree

average response: neutral (3) range: 3 categories (split responses)

5. I feel that a court officer should never make a recommendation on another probation officer's case.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: neutral (2.66) range: 3 categories

6. There are some probation violation issues that I could immediately resolve after a short interview with the defendant in court.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: agree (3.66) range: 3 categories

7. Judges impose sentences on probation violations without seeking information from me which could influence or alter the sentence given.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: sometimes (2.83) range: 3 categories

8. I have difficulty getting files from the court officer promptly after court.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: sometimes (3.3) range: 2 categories

9. I have difficulty reading and/or understanding handwritten notes from the court officer.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: sometimes (3) range: 3 categories

10. Court coverage would improve if officers were present on their own cases.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: agree (3.83) range: 4 categories

11. When I *fill-in* as a court officer I feel comfortable speaking in court.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: agree (4)

range: 4 categories (1 had not filled in)

12. When I go to court specifically to appear on one of my cases I feel comfortable speaking up in court.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: agree (4.2) **range: 3 categories (1 had not gone)**

13. I am more comfortable speaking up in court when I am talking about a case that is assigned to me rather than a case that is assigned to someone else.

1	2	3	4	5
strongly disagree	disagree	neutral	agree	strongly agree

average response: agree (4) **range: 3 categories (1 had not done both)**

14. If I were present in court, I believe my probationers would be less able to manipulate the court to their own advantage.

1	2	3	4	5
never	seldom	sometimes	frequently	always

average response: frequently (4) **range: 3 categories**

15. Please check only the statements you agree with (leave the others blank) :

4* ☐ I am pleased with the way the court officer covers my cases in court.

5 ☐ The court officer does the best that s/he can.

3 ☐ I feel that there is room for improvement of the court officer position

☐ I would prefer to communicate directly to the judge rather than to go through another probation officer.

4 ☐ I would like to go to court on my own cases if it was an efficient use of my time.

4 ☐ I believe that the judge usually has the necessary information to make good sentencing decisions on probation violations and/or new offenses for the individuals on my caseload.

4 ☐ I believe that the court officer accurately communicates my oral reports and recommendations to the court.

2 ☐ I am frustrated with the indirect oral communication to the court.

** The italic numerals indicate the number of probation officers that checked the statement as relevant.*

16. Please briefly complete the following statement:

I believe the court officer position could best be improved by...

_____ [responses_delineated_in_text] _____

Thank you for your participation.